



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**22 VAC 40-72 – Standards for Licensed Assisted Living Facilities**  
**State Board of Social Services**  
August 17, 2007

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### **Summary of the Proposed Amendments to Regulation**

The State Board of Social Services (the Board) proposes to eliminate the current requirement that Assisted Living Facilities with six or more residents have an emergency generator available onsite or have a contract to have an emergency generator available onsite within four hours of notification. The Board also proposes to add information in the facility's emergency preparedness and response plan on what, if any, assistance will be provided by the local emergency management office.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

During the most recent revisions to these regulations the Board established a rule requiring Assisted Living Facilities with six or more residents to have an emergency generator available onsite or to have a contract to have an emergency generator available onsite within four hours of notification. However, questions have been raised by the regulated facilities regarding the true intent of the legislative language. The Board requested from Joint Commission on Administrative Rules (JCAR) a clarification of the legislative intent. JCAR clarified that the intent is to have an available hook up for a generator in case of an emergency. Thus, the proposed regulations will eliminate the current requirement to have an emergency generator available on site or to have a contract to have one available on short notice as well as the requirement to have fuel available onsite to power the generator in case of emergency.

If enforced, the current requirement would have the potential to introduce significant compliance costs to regulated facilities. The cost of an appropriate size generator is estimated to

range from \$6,000 to \$12,000. However, due to ambiguous legislative intent, the Board has been issuing waivers for this particular requirement. We are unaware of any facility actually purchasing an emergency generator. Thus, the proposed changes will primarily eliminate the administrative costs of requesting and issuing waivers.

The proposed changes also require Assisted Living Facilities to add information in their emergency preparedness and response plan on what, if any, assistance will be provided by the local emergency management office. The development of a plan is already required and estimated to cost about \$145. Adding minor additional information to an existing plan would increase administrative costs by a small amount and could increase the health and safety protection afforded to residents in case of an emergency in terms of better planning.

### **Businesses and Entities Affected**

The proposed regulations affect the 620 licensed assisted living facilities in the Commonwealth, as well as their residents and families.

### **Localities Particularly Affected**

The proposed amendments affect all Virginia localities.

### **Projected Impact on Employment**

The proposed amendments are not expected to have any significant impact on employment.

### **Effects on the Use and Value of Private Property**

The proposed amendments are not expected to have any significant impact on the use and value of private property.

### **Small Businesses: Costs and Other Effects**

Most of the affected facilities are believed to be small businesses. The same effects discussed above would apply to small businesses.

### **Small Businesses: Alternative Method that Minimizes Adverse Impact**

The proposed amendments are not expected to have adverse effect on small businesses.

## **Real Estate Development Costs**

The proposed amendments are not expected to have any affect on real estate development costs.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.